

BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 NORTH CITY PARKWAY, SUITE 1600
LAS VEGAS, NV 89106
(702) 382-2101

Adam P. Segal, Esq.
Nevada Bar No. 6120
Bryce C. Loveland, Esq.
Nevada Bar No. 10132
BROWNSTEIN HYATT FARBER SCHRECK, LLP
100 North City Parkway, Suite 1600
Las Vegas, Nevada 89106
Telephone: 702.382.2101
Facsimile: 702.382.8135
Email: asegal@bhfs.com
bcloveland@bhfs.com

Attorneys for Defendants Wilson-McShane Corporation

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

GLEN LERNER INJURY ATTORNEYS, a
Nevada Corporation,

Plaintiff,

v.

LAKE MEAD EMERGENCY PHYSICIANS,
LLC, a Nevada Limited Liability Company;
CMRE FINANCIAL SERVICES, INC., a
California Corporation; NORTH VISTA
HOSPITAL, INC., a Delaware Corporation;
ORSOSITO, LIMITED LIABILITY COMPANY,
a Nevada Limited Liability Company d/b/a
COMPLETE CARE MEDICAL CENTER;
JAGET, LTD., a Nevada Corporation d/b/a
SPINAL REHABILITATION CENTERS; CHW
NEVADA IMAGING COMPANY, LLC, a
Nevada Limited Liability Company d/b/a
NEVADA IMAGING CENTERS;
HEALTHCARE SYSTEMS, INC., a Washington
Corporation d/b/a HSI; AGATA-VENGER
PARTNERSHIP, LLP, a Nevada Limited
Liability Partnership d/b/a WESTERN
REGIONAL CENTER FOR BRAIN AND SPINE
SURGERY; CLARK COUNTY COLLECTION
SERVICE, LLC, a Nevada Limited Liability
Company; SUNRISE MOUNTAINVIEW
HOSPITAL, INC., a Nevada Corporation; WEST
VALLEY IMAGING LIMITED PARTNERSHIP,

CASE NO.

PETITION FOR REMOVAL

1 a Nevada Limited Partnership; NEVADA
 2 CREDICO, INC., a Nevada Corporation d/b/a
 3 QUANTUM COLLECTIONS; CENTENNIAL
 4 PAIN RELIEF NETWORK, INC., a Nevada
 5 Corporation d/b/a CENTENNIAL SPINE &
 6 PAIN; MOUNTAIN REHABILITATION
 7 SERVICES; MOIHARWIN DIVERSIFIED
 8 CORPORATION, a Nevada Corporation d/b/a
 9 VEGAS VALLEY COLLECTION SERVICE;
 10 LAS VEGAS NEUROSURGERY
 11 ORTHOPAEDICS AND REHABILITATION,
 12 LLP, a Nevada Limited Liability Partnership;
 13 DESERT ORTHOPAEDIC CENTER, LTD., a
 14 Nevada Corporation; ORTHOPAEDIC MOTION,
 15 INC., a Nevada Corporation; CANYON
 16 MEDICAL BILLING, LLC, a Nevada Limited
 17 Liability Company; MED-CARE SOLUTIONS,
 18 LLC, a Nevada Limited Liability Company; NEW
 19 CENTURY REHABILITATION, LLC, Nevada
 20 Limited Liability Company d/b/a MATT SMITH
 21 PHYSICAL THERAPY; SDMI LIMITED
 22 PARTNERSHIP, a Nevada Limited Partnership
 23 d/b/a STEINBERG DIAGNOSTICS; KEY
 24 HEALTH MEDICAL SOLUTIONS, INC., a
 25 California Corporation; RED ROCK
 26 DIAGNOSTICS, a Nevada Limited Liability
 27 Company; BRIAN A. LEMPER, D.O., a Nevada
 28 Corporation; CARE REHAB AND
 ORTHOPAEDIC PRODUCTS, INC., a Virginia
 Corporation d/b/a/ PROGENIX; JOSEPH J.
 SCHIFINI, M.D., LTD., a Nevada Corporation;
 RADAR MEDICAL GROUP, LLP, a Nevada
 Limited Liability Partnership; DIAGNOSTIC
 IMAGING OF SOUTHERN NEVADA LIMITED
 PARTNERSHIP, a Nevada Limited Partnership;
 INSTITUTE OF ORTHOPAEDIC SURGERY,
 LLC, a Nevada Limited Liability Company;
 NEVADA ORTHOPAEDIC & SPINE CENTER,
 LLP, a Nevada Limited Liability Partnership;
 JEFFREY D. GROSS, M.D., INC., a California
 Corporation d/b/a COMPREHENSIVE INJURY
 INSTITUTE; OASIS WELLNESS CENTER,
 LLC, a California Limited Liability Corporation;
 PAIN INSTITUTE OF NEVADA, INC., Nevada
 Corporation; JORGENSEN & KOKA, LLP, a
 Nevada Limited Liability Partnership d/b/a
 PRIMARY CARE CONSULTANTS; CARDIO
 VASCULAR PLUS, INC., a California

Corporation; NATIONWIDE CREDIT RECOVERY, a California corporation; TOM BROOKS LLC, a Nevada Limited Liability Company d/b/a TOM BROOKS PHYSICAL THERAPY & SPORTS MEDICINE; PRACTICE ADMINISTRATIVE CONSULTANTS, a California Corporation d/b/a COAST RADIOLOGY AND IMAGING; DIOGENES ANESTHESIA MEDICAL GROUP, INC., a California Corporation; NATIONAL INTRA-OPERATIVE MONITORING; PACIFIC HOSPITAL OF LONG BEACH; JOJASO MANAGEMENT, INC., a Nevada Corporation; PROGRESSIVE MOTION, INC., a Nevada Corporation; MEDICAL INVESTMENT, INC., a Nevada Corporation d/b/a PURE MEDICAL EQUIPMENT; VALLEY VIEW SURGERY CENTER, LIMITED PARTNERSHIP, a Nevada Limited Partnership d/b/a MEDICAL DISTRICT SURGERY; MISSION HEALTHCARE SERVICES, INC., a California Corporation; LAS VEGAS RADIOLOGY, LLC, a Nevada Limited Liability Company; MEDICAL STRATEGY MANAGEMENT, INC., a Nevada Corporation; LUKE R. WATSON, M.D., INC., a California Corporation; WILSON-MCSHANE CORPORATION, a Minnesota Corporation; ACS RECOVERY SERVICES, INC., an Illinois Corporation; HEALTH PLAN OF NEVADA, INC., a Nevada Corporation; DOES I-V; and ROE CORPORATIONS I-V;

Defendants.

Defendant Wilson-McShane Corporation (“Wilson”), on behalf of the Construction Industry and Laborers Health and Welfare Trust (the “Trust”), respectfully submits this Notice of Removal of the above-entitled action from the District Court of Clark County, Nevada to the United States District Court for the District of Nevada, pursuant to 28 U.S.C. §§ 1331, 1441(a), 1446, and 29 U.S.C. § 1132(e), and states as follows:

On April 17, 2013, Plaintiff Glen Lerner Injury Attorneys filed a Complaint in Interpleader action against Wilson in District Court, Clark County, Nevada, styled as *Glen Lerner Injury Attorneys, Plaintiffs v. Lake Mead Emergency Physicians, LLC, et al., Defendants*, Case

No. A-13-680317-C, Dept. No. XIV, to, among other things, adjudicate the Trust's subrogation, lien, repayment, trust and assignment rights stemming from health benefits paid by the Trust on Dina Hamilton's behalf as a result of injuries suffered on January 5, 2007 ("the Incident").

On April 30, 2013, Wilson was served with a Summons and Complaint in the above entitled action. A true copy of the Summons and Complaint are attached as Exhibits A and B.

At the time of the Incident, Ms. Hamilton was a participant in the Trust's health and welfare benefit plan, providing health care benefits to its eligible participants and their eligible dependents (the "Plan").

The Plan is an employee welfare benefit plan as defined under the Employee Retirement Income Security Act of 1974, as codified at 29 U.S.C. § 1001, *et seq.* ("ERISA").

Removal of this case is proper because Congress has given exclusive jurisdiction to Federal Courts to enforce terms of an ERISA Plan. ERISA § 502(e), as codified at 29 U.S.C. § 1132(e)(1) provides:

[T]he district courts of the United States shall have exclusive jurisdiction of civil actions under this subchapter brought by the Secretary or by a participant, beneficiary, fiduciary, or any person referred to in section 1021(f)(1) of this title.

ERISA § 502(f), as codified at 29 U.S.C. § 1132(f) provides:

The district courts of the United States have jurisdiction, without respect to the amount in controversy or the citizenship of the parties, to grant the relief provided for in subsection (a) of this section in any action.

All pleadings and papers that were filed and served on Wilson have been attached to this Notice of Removal in accordance with 28 U.S.C. § 1446(a).

This Petition for Removal is filed with the District Court within thirty (30) days after service of the Complaint on Wilson.

The undersigned attorney certifies that he has caused a copy of the original Notice of Removal to be filed with the Clerk of the Clark County District Court, State of Nevada.

1 WHEREFORE, Wilson respectfully requests this Court to assume jurisdiction over the
2 case herein, as provided by law.
3

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5 Dated this 21st day of May, 2013.

BROWNSTEIN HYATT FARBER SCHRECK, LLP

/s/ Bryce C. Loveland

Adam P. Segal, Esq.

Nevada Bar No. 6120

Bryce C. Loveland, Esq.

Nevada Bar No. 10132

100 North City Parkway, Suite 1600

Las Vegas, Nevada 89106

Telephone: 702.382.2101

Facsimile: 702.382.8135

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LAS VEGAS, NV 89106
(702) 382-2101

CERTIFICATE OF SERVICE

Pursuant to Federal Rule of Civil Procedure 5(b), I certify that I am an employee of Brownstein Hyatt Farber Schreck, LLP and that on this 21st day of May, 2013, I served a true copy of the foregoing **PETITION FOR REMOVAL** upon:

Justin G. Randall, Esq.
GLEN LERNER INJURY ATTORNEYS
4795 South Durango Drive
Las Vegas, NV 89147
jrandall@glenlerner.com

Attorney for Plaintiffs

☒ **BY CM/ECF System.**

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Ebony Davis

An Employee of Brownstein Hyatt Farber Schreck, LLP

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